

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of: Larri VERMOLA *et al.*

Application No.: 10/580,677

Filed: March 8, 2007

Confirmation No.: 4990

Examiner: Kelley, Steven Shaun

Group Art Unit: 2617

For: METHOD FOR DATA RECEPTION IN A MULTI-FUNCTION RECEIVING DEVICE

Commissioner for Patents
Alexandria, VA 22313-1450

REPLY BRIEF UNDER 37 CFR §41.41

Dear Sir:

This Reply Brief is submitted in response to the Examiner's Answer dated September 7, 2011.

I. REAL PARTY IN INTEREST

The real party in interest is Nokia Corporation, a corporation organized under the laws of Finland and having a place of business at Keilalahdentie 4, FIN-02150 Espoo, Finland. The above referenced patent application is assigned to Nokia Corporation.

II. RELATED APPEALS AND INTERFERENCES

Appellants are unaware of any related appeals and interferences.

III. STATUS OF THE CLAIMS

Claims 18-21, 24, 25, 27-36, 38, 39, and 42-49 are pending in this appeal. Claims 1-17, 22, 23, 26, 37, 40, and 41 have earlier been canceled. No claim is allowed. This appeal is therefore taken from the final rejection of claims 18-21, 24, 25, 27-36, 38, 39, and 42-49 set forth in the final Office Action dated December 10, 2010.

IV. STATUS OF AMENDMENTS

Amendments to the claims were last submitted in a Response Under 37 CFR §1.111 filed on October 12, 2010, which were entered and considered. Thus, the status of the claims is as of that amendment which was entered by the Examiner.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

Independent claim 18 is directed to a method of receiving data comprising: receiving data from a broadcast network (see, e.g., reference numerals 2a, 2b, and 3 in FIGS. 1 and 2, step S3.10 in FIG. 3; page 5, lines 28-32, and page 9, lines 8-11); processing the received data (see, e.g., step

S3.10 in FIG. 3; page 10, lines 5-10); outputting the processed data (see, e.g., step S3.10 in FIG. 3; page 9, lines 9-11); in response to an interruption (see, e.g., step S3.11 in FIG. 3; page 10, lines 15-22), proceeding in a first resource saving mode by continuing to receive data from the broadcast network but not processing and not outputting said received data (see, e.g., step S4.7 in FIG. 4, and step S8.7 in FIG. 8; page 12, lines 1-8, and page 14, lines 28-31; see also page 15, line 28, through page 16, line 4); and proceeding in a second resource saving mode in which no data is received from the broadcast network, after operating in the first resource saving mode for a first predetermined time period (see, e.g., steps S4.9 and S4.10 in FIG. 4, and steps S8.9 and 8.10 in FIG. 8; page 13, lines 15-18, and page 14, lines 30-31), wherein, after operating in said second resource saving mode for a second predetermined time period, an application for outputting the processed data is deactivated (see, e.g., step S8.19 in FIG. 8; page 15, lines 19-20), and wherein the step of receiving data from the broadcast network comprises filtering the received data in order to discard unwanted data (see, e.g., step S3.8 in FIG. 3; original claim 23).

Independent claim 33 is directed to a data receiving device comprising: a receiver arranged to receive data from a broadcast network (see, e.g., reference numerals 2a, 2b, 3, and 9 in FIGS. 1 and 2, step S3.10 in FIG. 3; page 5, lines 28-32, page 6, lines 25-27, and page 9, lines 8-11); at least one processor arranged to process the received data and to cause output of the processed data (see, e.g., step S3.10 in FIG. 3; page 7, lines 10-12, page 9, lines 9-11, and page 10, lines 5-10); and at least one memory including computer program code for one or more programs (see, e.g., reference number 15 in FIG. 2; page 7, lines 10-12), the at least one memory and the computer program code configured to, with the at least one processor, cause the apparatus to perform at least the following, in response to an interruption (see, e.g., step S3.11 in FIG. 3; page 10, lines 15-22) the data receiving device being arranged to operate in a first resource saving

mode in which the receiver remains active but received data is not processed by the processor and not output (see, e.g., step S4.7 in FIG. 4, and step S8.7 in FIG. 8; page 12, lines 1-8, and page 14, lines 28-31; see also page 15, line 28, through page 16, line 4), and the data receiving device being arranged to operate in a second resource saving mode in which the receiver is deactivated, after operating in the first resource saving mode for a first predetermined time period (see, e.g., steps S4.9 and S4.10 in FIG. 4, and steps S8.9 and 8.10 in FIG. 8; page 13, lines 15-18, and page 14, lines 30-31), and the data receiving device being configured to, after operating in said second resource saving mode for a second predetermined time period, deactivate an application configured to output the processed data (see, e.g., step S8.19 in FIG. 8; page 15, lines 19-20), and wherein the receiver comprises a filter configured to extract selected data from the received data for processing and for discarding of unwanted data (see, e.g., step S3.8 in FIG. 3; original claim 23).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Claims 18, 20, 24, 25, 27, 29-33, 35, 38, 39, 42, and 44-49 were rejected under 35 U.S.C. §103(a) as unpatentable over *Engstrom* (U.S. Patent No. 7,065,333) in view of *Dahlin et al.* (U.S. Patent No. 6,122,263) and *Guterman* (U.S. Patent No. 7,062,303).

B. Claims 19, 21, 34 and 36 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Engstrom* in view of *Dahlin et al.*, *Guterman*, and *Na et al.* (U.S. Patent 7,031,746).

C. Claims 28 and 43 under 35 U.S.C. §103(a) as being unpatentable over *Engstrom* in view of *Dahlin et al.*, *Guterman*, and *Wakamatsu* (U.S. Pub. No. 2001/0029196).

VII. ARGUMENT**GROUPING OF CLAIMS**

For the convenience of the Honorable Board of Patent Appeals and Interferences (“Board”), Appellants do not separately argued the patentability of any of dependent claims 19-21, 24, 25, 27-32, 34-36, 38, 39, and 42-49. Instead, the patentability of these claims stands or falls with their respective independent claims 18 and 33. Accordingly, for purposes of Appeal, Group I includes claims 18-21, 24, 25, 27-32, all standing or falling together with independent claim 18, and Group II includes claims 33-36, 38, 39, and 42-49, all standing or falling together with independent claim 33.

A. THE REJECTION OF CLAIMS 18, 20, 24, 25, 27, 29-33, 35, 38, 39, 42, AND 44-49 UNDER 35 U.S.C. §103 FOR OBVIOUSNESS PREDICATED UPON ENGSTROM IN VIEW OF DAHLIN ET AL. AND GUTERMAN

Pages 9-11 of the Examiner’s Answer set forth the Examiner’s response to some of the arguments presented by the Appellants in the Appeal Brief. The Examiner’s response focuses on a perceived misinterpretation of the Examiner’s statements. The Examiner clarifies his statements by asserting that he did not imply that the antenna (450) of *Engstrom* does not receive any and all signals, but rather that the receiver of *Engstrom* only receives certain frequencies of signals, for example, AM signals, FM signals, television signals, and digital broadcasting signals. The Examiner further asserts that the antenna (450) of *Engstrom* does not and cannot perform filtering of the received signals, and thus all of the frequencies received by the antenna (450) will be input into tuners (452 and 453).

At the outset, the Appellants submit that the Examiner’s statements appear incongruous. For example, if the antenna (450) of *Engstrom* cannot perform filtering, then how does the

antenna (450) only receive certain frequencies of signals (i.e., AM signals, FM signals, television signals, and digital broadcasting signals) but not others, as is asserted by the Examiner?

In response to the Appellants' assertion that "there is no instance in which both wanted and unwanted data is simultaneously received by the antenna/tuner of *Engstrom*, and then unwanted data is filtered out and discarded," the Examiner asserts that there is only one antenna (450) in *Engstrom* that provides inputs to two tuners (452 and 453) that are simultaneously tuned to different broadcasting programs. However, in such a situation there is not filtering and discarding of unwanted data, since both of the tuned broadcasts are wanted data that is not being filtered out and discarded. The Examiner asserts that both of the tuners (452 and 453) in this scenario are receiving both broadcasts and that one tuner is filtering out a first broadcast and the other tuner is filtering out the second broadcast. The Appellants respectfully disagree with this assertion. As discussed in the Appeal Brief, the receipt of the data in *Engstrom* occurs through the operation of the tuners, which are tuned to a particular frequency in order to receive such data via the aid of the antenna. Therefore, one of the tuners is tuned to the particular frequency of the first broadcast, and the other tuner is tuned to the particular frequency of the second broadcast. As noted in the Appeal Brief, an FM tuner as described as an example in *Engstrom*, does not receive data across all (or even a mere plurality of) frequencies of the FM tuner, and then filter out the desired frequency from the received data, but rather merely selects a desired frequency by which to actually receive data.

Engstrom does not disclose that either tuner (452 or 453) is receiving and discarding unwanted data. No evidence is presently on the record for such a teaching.

Thus, the Appellants again submit that *Engstrom* does not disclose or suggest a step of **receiving data from a broadcast network that comprises filtering the received data in order**

to discard unwanted data in the manner recited in claim 18, or a receiver that comprises a filter configured to extract selected data from the received data for processing and for discarding of unwanted data in the manner recited in claim 33.

As noted in the Appeal Brief, the initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention under any statutory provision always rests upon the Examiner. The Administrative Procedures Act (APA) mandates the Patent Office to make the necessary findings and provide an administrative record showing the evidence on which the findings are based, accompanied by the reasoning in reaching its conclusions. The Appellants submit that the Office Action fails to establish a *prima facie* case of obviousness for the claims as they are set forth herein, since there is no evidentiary support for the conclusion that the features recited in the claims were known at the time of the present invention. Accordingly, the Appellants request that such evidentiary support be placed on the record, or the obviousness rejections withdrawn.

Thus, the Honorable Board is respectfully requested to reverse the rejection of independent claims 18 and 33 under 35 U.S.C. §103. The Appellants do not separately argue the merits of dependent claims 20, 24, 25, 27, and 29-32, but rather, these claims stand or fall with independent claim 18. Also, the Appellants do not separately argue the merits of dependent claims 35, 38, 39, 42, and 44-49, but rather, these claims stand or fall with independent claim 33.

B. THE REJECTION OF CLAIMS 19, 21, 34 AND 36 UNDER 35 U.S.C. §103 FOR OBVIOUSNESS PREDICATED UPON ENGSTROM IN VIEW OF DAHLIN ET AL., GUTERMAN, AND NA ET AL.

Appellants do not separately argue the patentability of dependent claims 19, 21, 34, and 36. Rather, the patentability of claims 19 and 21 stand or fall with independent claim 18, and the patentability of claims 34 and 36 stand or fall with independent claim 33.

C. THE REJECTION OF CLAIMS 28 AND 43 UNDER 35 U.S.C. §103 FOR OBVIOUSNESS PREDICATED UPON ENGSTROM IN VIEW OF DAHLIN ET AL., GUTERMAN, AND WAKAMATSU

Appellants do not separately argue the patentability of dependent claims 28 and 43. Rather, the patentability of claim 28 stands or falls with independent claim 18, and the patentability of claim 43 stands or falls with independent claim 33.

VIII. CONCLUSION AND PRAYER FOR RELIEF

For the foregoing reasons, Appellants request the Honorable Board to reverse each of the Examiner's rejections.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

DITTHAVONG MORI & STEINER, P.C.

November 7, 2011
Date

/Christopher D. Ward/
Christopher D. Ward
Attorney/Agent for Appellant(s)
Reg. No. 41637

918 Prince Street
Alexandria, VA 22314
Tel. (703) 519-9951
Fax. (703) 519-9958

IX. CLAIMS APPENDIX

1. - 17. (Canceled)

18. A method of receiving data comprising:

receiving data from a broadcast network;

processing the received data;

outputting the processed data;

in response to an interruption, proceeding in a first resource saving mode by continuing to receive data from the broadcast network but not processing and not outputting said received data; and

proceeding in a second resource saving mode in which no data is received from the broadcast network, after operating in the first resource saving mode for a first predetermined time period,

wherein, after operating in said second resource saving mode for a second predetermined time period, an application for outputting the processed data is deactivated, and

wherein the step of receiving data from the broadcast network comprises filtering the received data in order to discard unwanted data.

19. A method according to claim 18, wherein, when in said first resource saving mode, received data is discarded.

20. A method according to claim 18, wherein, when in said first resource saving mode, received data is stored.

21. A method according to claim 20, comprising, in the first resource saving mode, discarding data received following the expiry of a predetermined time limit.
22. (Canceled)
23. (Canceled)
24. A method according to claim 18, wherein, after operating in said second resource saving mode for a third predetermined time period, removing a filter arranged to perform said filtering step.
25. A method according to claim 18, wherein, after operating in said second resource saving mode for a fourth predetermined time period, an IP session arranged to handle the output data is closed.
26. (Canceled)
27. A method according to claim 18, wherein the interruption is an activation of an application unrelated to reception of data from the broadcast network.
28. A method according to claim 27, which proceeds in said first resource saving mode in response to a determination that insufficient resources are available for handling reception of data and the unrelated application.
29. A method according to claim 18, comprising displaying a list of services provided over the broadcast network.

30. A method according to claim 29, comprising updating said list of services and displaying an updated list.

31. A method according to claim 18, wherein the step of outputting comprises at least one of: displaying visually displayable data; and outputting audio data.

32. A computer program comprising instructions that, when run on processing means within a data receiving device, causes said data receiving device to perform a method according to claim 18.

33. A data receiving device comprising:

a receiver arranged to receive data from a broadcast network;

at least one processor arranged to process the received data and to cause output of the processed data; and

at least one memory including computer program code for one or more programs,

the at least one memory and the computer program code configured to, with the at least one processor, cause the apparatus to perform at least the following,

in response to an interruption the data receiving device being arranged to operate in a first resource saving mode in which the receiver remains active but received data is not processed by the processor and not output, and the data receiving device being arranged to operate in a second resource saving mode in which the receiver is deactivated, after operating in the first resource saving mode for a first predetermined time period, and the data receiving device being configured to, after operating in said second resource saving mode for a second predetermined time period, deactivate an application configured to output the processed data, and

wherein the receiver comprises a filter configured to extract selected data from the received data for processing and for discarding of unwanted data.

34. A data receiving device according to claim 33, wherein, in said first resource saving mode, the received data is discarded.

35. A data receiving device according to claim 33, wherein, in said first resource saving mode, the received data is stored.

36. A data receiving device according to claim 35, wherein, in the first resource saving mode, data received following the expiry of a predetermined time limit is discarded.

37. (Canceled)

38. A data receiving device according to claim 33, wherein the receiver is configured to deactivate the filter after operating in said second resource saving mode for a third predetermined time period.

39. A data receiving device according to claim 33, wherein the processor is configured to create an IP session for handling the output data, and, after operating in said second resource saving mode for a fourth predetermined time period, to close said IP session.

40. (Canceled)

41. (Canceled)

42. A data receiving device according to claim 33, wherein the interruption is an activation of an application unrelated to reception of data from the broadcast network.

43. A data receiving device according to claim 42, configured to switch to said first resource saving mode in response to a determination that insufficient resources are available for handling reception of data and the unrelated application.

44. A data receiving device according to claim 33, further comprising a telephone transceiver arranged to transmit and receive data via a telecommunications network.

45. A data receiving device according to claim 33, comprising a media guide application to selectively access services provided over broadcast network.

46. A data receiving device according to claim 45, wherein the media guide application is configured to display and update a list of available services on a user interface of the receiving device.

47. A data receiving device according to claim 33, wherein the processed data is output to at least one of a display for outputting visually displayable data; and audio output apparatus.

48. A communication system comprising:

a broadcast network; and

one or more receiving devices according to claim 33.

49. A communication system according to claim 48, comprising:

a bi-directional telecommunications network;

wherein at least one of the one or more receiving devices comprises a telephone transceiver arranged to transmit and receive data via said telecommunications network.

X. EVIDENCE APPENDIX

Appellants are unaware of any evidence that is required to be submitted in the present Evidence Appendix.

XI. RELATED PROCEEDINGS APPENDIX

Appellants are unaware of any related proceedings that are required to be submitted in the present Related Proceedings Appendix.